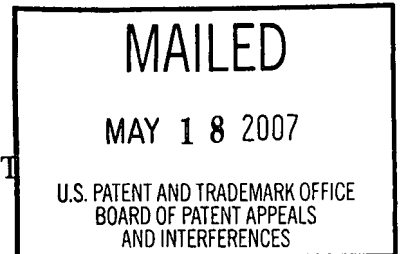


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte : MICHAEL BORG and ALYSIA F. WURST

Application No. 09/820,457



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on April 18, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

**EXAMINER'S ANSWER**

**Evidence of Record**

On June 30, 2006, an Examiner's Answer was mailed in response to the Appeal Brief received May 5, 2006. A review of the Examiner's Answer reveals that it is not in compliance with the Manual of Patent Examining Procedure (MPEP). In the "Evidence Relied Upon" (section 8) the Examiner identifies evidence or prior art not specifically relied upon in the rejection of the claims on appeal. In accordance with MPEP §1207.02, the "Evidence Relied Upon" (section 8) should include:

(8) Evidence Relied Upon

A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages. Correction of the record is required.

Additionally, the Examiner should ensure that a copy of all references identified as prior

art is scanned into IFW for consideration by the Board of Patent Appeals and Interferences.

CONCLUSION

Accordingly, it is

**ORDERED** that the application is returned to the examiner for:

- 1) issue and mail a PTOL-90 citing the references used to reject the claims on appeal; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

  
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PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
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PJN/jgr

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